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10/500,879	01/10/2005	Carsten H Pedersen	742111-157	1176
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ROBERTS, MIOTKOWSKI & HOBBS			EXAMINER	
P. O. BOX 10064			SNIDER, THERESA T	
MCLEAN, VA 22102-8064				
			ART UNIT	PAPER NUMBER
			3723	
			NOTIFICATION DATE	DELIVERY MODE
			01/17/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/500,879

Applicant(s)

PEDERSEN, CARSTEN H

Examiner

Theresa T. Snider

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/7/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 74(page 12, line 11), 128(page 13, line 2; not shown in fig. 22 as disclosed). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

Reference character "76" has been used to designate both ring(page 12, line 14) and flange(page 12, line 14);

Reference character "132" has been used to designate both cylinder(page 12, line 31) and wall(page 13, line 1).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of

an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because Figure 22 has 2-138s. Figure 7 fails to disclose the connecting tube 47 having a conical connecting stub (page 11, lines 8-9). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second angles of claims 1 and 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be

entered. It is recommended reference numerals be inserted into the appropriate figure/s directed to the first and the second angle.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

Exemplary of such:

The specification fails to have a 'Brief Description of the Drawings'.

It is recommended that material directed to the claimed subject matter be relocated from the 'Summary of the Invention' to the appropriate location in 'The Drawing with Embodiments'. For instance, the subject matter relating to claims 8 and 14-17.

Page 10, line 5, 'The Drawing with Embodiments' should be replaced with 'Detailed Description of the Preferred Embodiments'(or the like).

Page 6, line 4, 'maybe' should be replaced with 'may be';

Line 10, 'said' should be deleted.

Page 7, line 6, it is unclear as to what is meant by 'now hold in the hair';

Line 7, it is unclear as to what is meant by 'become too live or electrical'.

Page 9, line 7, it is unclear as to what is meant by 'shaped a conc'.

Page 10, line 10, 'detached' should be replaced with 'detachable';

Line 28(and occurrences thereafter), it is unclear as to what is meant by 'acting as a tilt axis'.

Page 11, line 8, it is unclear as to what is meant by 'fitted in vacuum'.

Appropriate correction is required.

Claim Objections

6. Claims 4-17 are objected to because of the following informalities: Exemplary of such: Claim 4, line 1, 'An' should be replaced with 'A';

Line 2, 'where the device includes' would be more appropriately replaced with 'comprising'.

Claim 5, line 4, 'are' should be replaced with 'is'.

Claim 11, line 3, 'shaped a cone' should be replaced with 'shaped like a cone'

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 1 sets forth a method however the claim fails to provide any steps of a method that are typically indicative by the use of '-ing' but rather uses 'wherein' clauses. For instance, claim 1, line 2, 'using a mouthpiece' would be more appropriate replaced with 'comprising: providing a mouthpiece', line 10, 'wherein a sheaf of hair is sucked into the mouth' would be more appropriately replaced with 'sucking a sheaf of hair into the mouth', line 11, 'wherein the comb is tilted in over' would be more appropriately replaced with 'tilting the comb in over' and line 13, 'wherein the sheaf of hair is combed' would be more appropriately replaced with 'combing the sheaf of hair';

Line 5, 'the front' should be replaced with 'a front';

Line 5, it is unclear as to what constitutes 'steep';

Line 7, it is unclear as to whether there is a 'first, open part' to the 'second, open part'.

Claims 2-3, line 1, 'A' should be replaced with 'The'.

Claim 3, line 4, 'the lice and vermin' lack proper antecedent basis;

Line 4, it is unclear as to what is meant by 'combed with short intervals'.

Claim 4, line 2, is unclear because 'adapted to engage one end of tube' appears to be functional language however claim 5 leads one to believe that the mouthpiece is actually connected to the tube, therefore the tube is an element of the claimed invention.

Claims 5-6, line 1, 'An' should be replaced with 'The'.

Claims 7-17, line 1, 'A' should be replaced with 'The'.

Claim 5, line 5, it is unclear as to whether 'the vacuum connecting tube' is in addition to the 'tube connecting to the source of vacuum' or one in the same;

Line 6, it is unclear as to what is meant by 'from the point as this is visible in the connecting tube of the mouthpiece'.

Claim 7, line 2, it is unclear as to what constitutes 'fits tightly'.

Claim 9, line 2, it is unclear as to what is meant by 'forming a tilt axis'.

Claim 12, line 1, 'the filter' lacks antecedent basis. Should the claim be dependent from 11 or 10 rather than 4?

Line 2, it is unclear as to the relationship of the 'a tube and a pipe' to the previously recited elements;

Line 5, it is unclear as to whether the 'a filter' is in addition to that of claim 1 or one in the same.

Claim 13, line 2, it is unclear as to whether a cover is present or not. The use of 'may be closed' leads to believe that if the filter is not closed there is no cover.

Claim 14, line 1, 'the end piece' lacks proper antecedent basis. Should the claim be dependent from 13 rather than 12?

Claim 15, line 1, 'the lens' lacks proper antecedent basis. Should the claim be dependent from 14 rather than 12?

Claim 17, line 1, 'the lens' lacks proper antecedent basis. Should the claim be dependent from 16 rather than 13?

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. Claims 1-4, 6-8 and 12-13 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvera et al.(5,768,748) in view of JP2001-224536.

Silvera et al. discloses a similar mouthpiece however fails to disclose an inclining wall.

Silvera et al. discloses a mouthpiece connected to a source of vacuum through a tube containing a filter (figs. 1-2, #14,16,48).

Silvera et al. discloses the mouthpiece, with a substantially elongated shape, including a mouth and at least one comb attached thereto (fig. 2, #14,54,58).

Silvera et al. discloses the comb covering a minor part of the mouth of the mouthpiece (fig. 2, #58,54).

Silvera et al. discloses the comb arranged to form an angle relative to the longitudinal axis of the mouthpiece (fig. 3, #58). JP2001-224536 discloses a mouthpiece adapted to engage one end of a tube attached to a source of vacuum and having an elongated shape,

including a mouth (figs. 1-2, #6,3,2). JP2001-224536 discloses the mouth of the mouthpiece has an inclining wall surrounding an open part of the mouth and being at a first angle with respect to the longitudinal axis and at a second angle with respect to a wall to which a brush is attached (figs. 1-2, area near #5B). It would have been obvious to one of ordinary skill in the art to provide the mouth of Silvera et al. with the inclined walls of JP2001-224536 to allow for the most effective contact of the mouth with a surface.

With respect to claims 1-2, Silvera et al. in view of JP2001-224536 inherently discloses the method steps of a sheaf of hair being sucked into the mouth whereby the sheaf is hanging extended in the mouthpiece when the comb is tilted over the sheaf with points of the teeth in contact with the skin or scalp (fig. 1, col. 2, lines 55-67).

With respect to claim 3, it would have been obvious to one of ordinary skill to tilt the comb of Silvera et al. in view of JP2001-224536 in and out of a sheaf of hair and use short strokes, as one skilled in the art would recognize that if the sheaf of hair was badly infested with parasites, one would need to frequently lift the comb from the skin to remove the parasites and use short strokes to concentrate the force of the vacuum and mechanical action of the comb in that area.

With respect to claim 6, Silvera et al. discloses the comb arranged in the uppermost part of the mouth and is readily detachable (col. 2, lines 40-45).

With respect to claim 7, it would have been obvious to one of ordinary skill in the art that to modify the shape of the mouth of Silvera et al. in view of JP2001-224536 to be substantially circular and have the comb extend in plane substantially perpendicular to

the longitudinal axis of the device since such a modification would have involved a mere change in the shape or form of a component.

With respect to claim 8, Silvera et al. discloses the comb presents an edge of points of teeth(fig. 2, #60). Silvera et al. in view of JP2001-224536 discloses the mouth inclines rearwards and downwards from the edge (fig. 3, #82, fig. 1, #5B).

With respect to claim 12, Silvera et al. discloses the filter is disposed at a transition between a pipe and tube (fig. 2, #48,18,44). Silvera et al. discloses the transition is formed by a locking mechanism (fig. 2, #38, friction fit between #18,38,44). Silvera et al. discloses the filter is formed by a filter cylinder interacting with the internal wall of the pipe and containing a bottom formed by a filter(fig. 2, #38,48).

With respect to claim 13, Silvera et al. discloses the filter may be closed by a cover that includes an end piece and cylinder wherein the cylinder engages the internal wall of the filter cylinder (fig. 2, #20, fig. 3 end piece connects to nozzle and cylinder connects to tube 18).

Allowable Subject Matter

11. Claims 5, 9-11 and 14-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Double Patenting

It is noted that if the dependency of claim 14 were amended to provide for proper dependency(see 112, 2nd rejection above), the below double patenting rejection would be appropriate.

12. Claims 16-17 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 14-15. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Malin discloses a mouthpiece having a mouth is arranged longitudinally inclining relative to the longitudinal axis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Theresa T. Snider/
Primary Examiner, Art Unit 3723

Theresa T. Snider
Primary Examiner
Art Unit 3723

1/9/2008